

The Madison County Board of Zoning Appeals met on the above date at 9:00 A.M. with, Bill Hobbs, Vice Chairman, presiding.

Members Present: Bill Maxwell, Al Stewart, Rick Durham, and Bill Hobbs.

Members Absent: Mary Jane Baker

Also Present: Cory Wilson, Executive Director, Judy King, Plan Reviewer, Gerald Shine, Jr., Attorney, and Beverly Guignet, Secretary.

## **CURRENT BUSINESS**

Member Hobbs introduced, Al Stewart as the new member to the Board.

1. Roll call was taken with one member, Mary Jane Baker being absent.
2. The minutes for September 2008 and January 2009 were distributed to each member prior to the meeting. Member Maxwell made a motion seconded by Member Durham to approve the minutes for September 2008 as presented. The vote was unanimous in favor of the motion.

The minutes for October, November, December 2008 and February 2009 needed no action as the meetings were cancelled.

Member Maxwell made a motion, seconded by Member Durham to approve the minutes for January 2009 with the corrections as stated. The vote was unanimous in favor of the motion.

## **New Business**

Director Wilson asked the Board if they would mind having item #3 moved to the start of the agenda as there were a number of people in attendance concerning that request.

Member Maxwell made a motion, seconded by Member Stewart to move item 3 to be heard first.

The vote was unanimous in favor of the motion.

3. **Petition: 09-SU-001      Zoning: CR**  
Address: 0 CR 150 South, Anderson (Vacant Land)  
Location: North side of CR 150 South, between CR 300 East and CR 400 East  
Petitioner: Larry Muckenhirn & Chad Gooding  
Request: Special Use grant to provide for the development of a standard-bred horse training facility initially containing a 60-stall horse barn, training track and paddocks. Once built-out, the facility is expected to house a total of 210 horse stalls and a rehabilitation facility.

Chad Gooding, 10830 Tallowood Lane, Indianapolis, IN.

Larry Muckenhirn, 4634 Village Drive, Anderson, IN.

Mr. Gooding told the board they are seeking a Special Use for a horse training facility. This project would be done in phases. The first barn will be a 50 stall barn located in the northeast corner of the property. The facility is expected to only take up 22 of the 58 acres with the rest of the land being leased for farming to grow hay.

The first barn will be approximately 250 feet off of Co. Rd. 150S. There will be a total of three barns and a track for the horses. Our project will include a long term reputable trainer. This will be a home base for trainers associated with Hoosier Park.

A gentleman came in who is going to take approximately 45 stalls and will have ten staff members to take care of the horses. So, we estimate ten people working per barn.

The operation will be open during the racing season and the horses will be there full time. There will probably be ten employees per barn. Traffic will depend basically on the number of races. They will be hauled to the race track and back. Traffic is not expected to be heavy as that would depend on the time of the year. There will be two driveways, one in and one out.

There will be regular maintenance on the ground. There will also be landscaping, snow removal and security cameras on the ground. As far as the waste disposal, we are looking at a company called Green Cycle that is used by Hoosier Park. It will be removed as needed.

The first phase will be started in September and we feel it will be completed by December 2009 and be in full operation by March of 2011. At this point we are not planning on having any living quarters on the property.

Director Wilson stated staff recommends approval of the special use request, subject to the following condition:

The Petitioners return one-year from the date of the issuance of an ILP to review the specifics of this grant and any affects it may have on the surrounding property owners.

- ◇ The subject site is a 57.584-acre parcel located along the north side of CR 150 South approximately one-quarter mile west of CR 400East. The property is zoned CR (conservation residential) and is surrounded by large-lot single-family development with the Comprehensive Plan recommending rural development for this site. This request would provide for the development of a standard-bred horse training facility initially containing a 60-stall horse barn, training track and paddocks.
- ◇ The petitioner has submitted a business plan/informational sheet file-dated March 5, 2009. In that plan the petitioner describes the business; the targeted market/anticipated patrons, the growth trends as well as the local demand for a facility of this nature. According to the plan, the petitioner intends to lease portions of the facility for standard-bred horses that are used at the two nearby Indiana tracks. This facility will contain everything trainers need onsite in the racing industry and would be located 2.2 miles from the horseman's entrance at Hoosier Park.
- ◇ Initially, the developers are seeking approval for a 24-foot tall, 60-stall horse barn, a 5/8 mile training track and paddocks. The rehabilitation facility would include an off-street gravel parking area with direct access from CR 150 South. The developers hope the facility will expand to include room for 210 stalls and a pool that would provide water exercise for the animals.

- ◇ The petitioner has indicated that they are forming an Indiana Limited Liability Company (LLC). A team of professional advisors has been established and a list has been submitted to this board. The petitioner has indicated they will obtain the various licenses and permits required to operate this type of facility.
- ◇ *The Madison County Land Use & Development Code* provides for grazing and pasture land outright and the development of livestock within the CR District. Further, animal boarding as well as large-scale recreational uses are permitted via a special use grant from the Board of Zoning Appeals. Staff believes that this type of facility would be consistent with the land-use recommendations of the Comprehensive Plan, but does share some concerns about the traffic that would be generated as well as the waste produced by the number of animals expected at the facility. Staff would request specifics on waste disposal as well as an accurate traffic count.

### **GENERAL INFORMATION**



A proper legal notification was given.

Director Wilson told the board after giving it more thought, the house surrounded by this property should have some sort of screening in terms of fencing or evergreen trees that the petitioners would need to install on their property to screen. Also, the petitioner shall return one year from the issuance of the Improvement Location Permit. This way we can review the specifics of the grant and any effects it may have on the surrounding property owners.

In terms of our county roads 150S and 200E are in pretty decent condition compared to others in the county.

Mr. Muckenheim told the board there will be trucks parked on the site that load and unload the horses. But they will not be on site all the time. As the horses are taken in and out for races around Indiana and a few other states, the only other vehicles will be the owners and trainers.

There will be two sets of restrooms per barn. There will also be a drain in the barn. I have spoken to the local and State Board of Health and there does not seem to be any problems with what we want to do.

Liz Bybee, 208 Woods Road, Edgewood.

Ms. Bybee told the Board the property she inherited is directly across the street from this proposal.

Her concerns are the road conditions, waste disposal and the open ditch.

Doug Cooper, 3500 E 150S.

Mr. Cooper told the Board his concerns are the road conditions, the ditch, the bridge and the lighting.

Bob Huffer, 3438 E 200S.

Mr. Huffer told the Board his concerns are the ditch, bad road conditions and the run off.

Richard Chandler, 3781 E 150S.

Mr. Chandler informed the Board he lives across from this property. His concerns are drainage, smell, the wells and the value of his property going down.

Director Wilson stated if there is any kind of development that is over one acre in size an approval from the Drainage Board would have to be obtained.

Mr. Gooding stated they are 700 feet away from the ditch. Green Cycle will be picking up the waste which will be in a holding bin, chemically treated to keep the odor down and then hauled away from the property so there will be no run off or contamination.

Our proposed hours of operation will be during daylight. No training or practices will be done at night. There will be some security lights that will be face toward the track and we will do the lighting per what the county ordinance requires.

There will only be one to two trailers per barn but five would be the maximum. Equipment will be stored in the equipment barn that will be housed between the other barns. There will be nothing stored outside.

Leigh Ann Dillon Muckenheim, 4636 Village Drive, Anderson, IN 46012.

Mrs. Muckenhim informed the board they will personally own seven of the horses that will be housed at this site. That is part of the reason that we wanted a building like this closer. We want a place that we can train them. Our trainer has brought ten of his people into Madison County and they will be living here permanently. We want this to be a nice facility. This will be located two miles from Hoosier Park. We will be there to oversee the operation and make sure it is very well maintained.

Director Wilson told the Board that County Road 150S is typical of the roads in Madison County. Also, there is a lighting standard in the Comprehensive Plan that must be followed. These will be reviewed before an Improvement Location Permit is issued. The waste will be addressed through the Confined Feeding Operation section of the Ordinance. They must obtain permits from the Indiana Department of Environmental Management or the EPA. Because this development exceeds one acre the Madison County Drainage Board will have to make a decision on this petition. The County Health Department will also be involved. All necessary approvals must be obtained before the Planning Commission will issue any permits. Although this is not zoned for business, fencing or screening will be needed to protect the house that is surrounded by this property.

Mr. Gooding informed the Board the five acres surrounding the house will be screened, either by some type of fencing or evergreen trees that are staggered. The site plan that was submitted will be followed with the exception that the phases might be done in a different order. We will be in contact with the Planning Director at all phases to make sure we are following your guidelines.

Member Maxwell moved to approve Petition 09-SU-001 per the Findings of Facts. It will not injurious to the public health, safety, morals and general welfare of the community. It will meet the development standards. It is a rural area that is consistent with farming and single family dwellings. It is zoned for agricultural use including pasture land, livestock production. Also, with the following conditions: The petition return one year from the date of the issuance of the Certificate of Occupancy; Screening and buffering be subject to the approval Executive Director prior to the issuance of the certificate; Lighting be subject to the standards outlined in the ordinance; Keep the manure places empty as needed; Shall have approval by the Drainage Board; And all permits that are required by the state level; If any lights are wanted for the track they are to come back to the Board to get approval first.

Member Durham seconded the motion.

The vote was unanimous in favor of the motion. **Petition #09-SU-001 was approved.**

The Board then went back to item 1.

The Board took a five minute break (10:12:42 A.M.).

The meeting was called back to order (10:25:29 A.M.).

1. **Petition: 2009-V-002      Zoning: AG**  
Address: 6723 West Fall Creek Drive

Location: South side of Fall Creek Drive, west of CR 650 West.  
Petitioner: Ferge, James & Viola  
Request: Lot #3 - A variance of the development standards to provide for the construction of a single-family dwelling in a lot without road frontage (200' road frontage is req).  
Lot #2 - A variance of development standards to legally establish an accessory structure 17' from the east property line (minimum 25' side setback required) without a primary structure (residential lots required to be improved with a dwelling).  
Lot #1– A variance of development standards to legally establish a swimming pool located zero feet from east property line (minimum 25' side setback required).

James and Viola Ferge, 6723 W Fall Creek Drive, Pendleton, IN.

Mr. Ferge informed the Board they bought the property 19 years ago with existing house but with the intent of building a new home back in the woods sometime in the future. That's why the pool is located where it's at. At that time they thought they had a 25 foot road clearance beside the building but they didn't. They built the large barn as Mr. Ferge likes to restore old cars and his daughter's cars.

When they bought the property it was originally in three tracts and somewhere down the line it got converted in to one parcel. They changed it back to three parcels several years later.

Director Wilson stated staff recommends denial of the variance requests. Staff would support the creation of only two lots, negating the need for variances on Tracts A & B, with only a variance for road frontage and road access width needed for Tract C.

The following issues were considered in formulating the recommendation:

- ◇ The subject site(s) are located along Fall Creek Road, northwest of the Town of Ingalls and contain approximately seven acres. This request would legally establish a number of issues associated with a land "split" that occurred in 2008. The property is zoned agriculture (AG) and The *Madison County Land Use & Development Code* recommends this site be maintained primarily for farming operations and agricultural activities.
- ◇ The petitioner applied to the Planning Commission to obtain an Improvement Location Permit (ILP) for the construction of a single-family dwelling on Tract C. At that time, it was explained to the petitioner that the three tracts would need to be platted prior to the issuance of an ILP. Upon further review of the site plans, it was determined that a number of items would need to be addressed prior to any of the tracts being platted.
- ◇ Staff does not support the request to legally establish the swimming pool bisected by a lot line nor does it support an accessory structure on a lot without a primary structure. Staff recommends that the petitioner only be permitted to subdivide the seven acres into two lots with Lot 1 containing the existing dwelling, swimming pool, accessory structure and an access easement to "Tract C," with Lot 2 being the location of the proposed dwelling.



A proper legal notification was given

Director Wilson told the Board the petitioners have informed him they are in the process of acquiring 25 feet of additional property from the property owner to the west. That would provide sufficient spacing.

The Board informed Director Wilson it has always been the policy of the Board that there has to be 50 feet in width for any access way back to a property.

Director Wilson stated that staff is not recommending approval of this set up. Staff is recommending that only two parcels be created from this parent tract. Parcel A in the front and parcel B in the back. The accessory structure and the pool shall be associated with the dwelling that is existing and then the portion in the back with the pond is where the location of the new dwelling will be. The petitioner is asking for three parcels and we are recommending denial of that.

If the Board goes with the staff recommendation on two lots, they would have to have a new boundary survey and that would have to go the Plat Committee to be platted. If the Board goes with two lots it would negate the need for everything with the exception of access to the back portion.

If you go with three parcels, where the existing house is now and where the swimming pool bisects that property line, A, that's only a one acre parcel and that doesn't meet the minimum requirements of the zoning district. B, you have a pool with the property line through it. That's not good planning. Also, accessory structures without a primary dwelling somehow turn in to businesses. It lends itself to some sort of commercial activity.

Mr. Ferge told the Board he would like to keep the house and pool together on one lot. His brother wants to buy the house and the pool. The other section has the pole barn on it. And we want to build the house back on the last lot. The access drive back is only 17 feet wide and that is why he had to acquire an additional 15 feet.

Tom Walker, 5657 W Fall Creek Drive.

Mr. Walker told the Board his property lies adjacent to this on the east side.

Mr. Walker stated he and the petitioners have not gotten along for a while after they realized a few years ago they kept encroaching closer and closer to their property. When they got horses they planned on fencing it in and that's when we found out their driveway was 14 feet on our property. We just settled out of court about a week ago. You can see where they put in fill dirt and built their property up about 20 feet which caused drainage onto our property. Further down the driveway it's only going to be a couple feet off of our property. We are against this proposal.

Jim Simmon, 6811 W Fall Creek Drive, Pendleton.

Mr. Simmon informed the Board they live two properties west of this property.

Mr. Simmon said that his concerns are what affect it would have on their property or if it is sold or could they try and do this on the west side of their property.

Member Maxwell moved to table Petition 2009-V-002 as I would like to see the surveyor, petitioner and the director get together and discuss the concerns of this Board. See if there is some configuration they can come up with to satisfy our concerns. I move to table this until our April meeting.

Member Durham seconded the motion.

The vote was unanimous in favor of the motion. **Petition #2009-V-002 has been tabled until the April meeting.**

2. **Petition: 2009-V-001 Zoning: AG**  
Address: 8237 West State Road 132, Lapel  
Location: South side of SR 132, west of CR 800W  
Petitioner: Hoppes, Karen S.  
Request: A variance of development standards to provide for the construction of an accessory structure 3.12 feet from the west property line (minimum 25' side setback required).

Karen Hoppes, 8237 W St. Rd. 132, Lapel.

Mrs. Hoppes informed the Board that she wants to tear the old garage down and build a new one in pretty much the same spot. Because of where the septic is located there is no room to move it over. That means I cannot meet today's required setback regulations. The old garage was 11' x 24' and the new one will be 22' x 24'.

Director Wilson stated staff recommends approval of the variance request, subject to the following condition:

All Vehicles shall have current registration and plates or must be stored inside.

The following issues were considered in formulating the recommendation:

- ◇ The subject site is an approximately half-acre tract located on the south side of Old State Road 132, just opposite the intersection with CR-825 West. This request would provide for the removal of an existing garage and the construction of a new 528-square foot garage within the same footprint,



located 3.12 feet from the west (side) property line. The property is zoned agriculture (AG) and the Comprehensive Plan recommends this site be maintained primarily for farming operations and agricultural activities. This property is used as a single-family dwelling with no farming activities occurring on site; however, the site is surrounded by farm land.

- ◇ The *Madison County Land Use & Development Code* provides an exception to the minimum 25-foot side setback requirement if the property is less than 2-acres and was legally created under a prior code. This exception allows for the side setback to be reduced to a minimum 10 feet for both sides.
- ◇ The Petitioner has indicated the existing detached structure, as shown in the photos, is in need of numerous repairs. Therefore, the petitioner is proposing to demolish the structure and rebuild within the same footprint and utilize the existing curb-cut along SR 132. Because SR 132 is a state highway, there is little likelihood that a second curb-cut would be permitted and therefore the location of this proposed structure is limited to this location.



Proper legal notification was given.

There were no remonstrators present.

Member Maxwell move to approve Petition #2009-V-001 per the Findings of Fact; It would not be injurious to the public health, safety, morals or general welfare of the community; It's going to be where a garage is now. It will fit the standards set forth in this district; There is no place else to sit the garage because of the septic field. It in character of that particular zoning district which is agricultural.

Member Stewart seconded the motion.

The vote was unanimous in favor of the motion. **Petition #2009-V-001 was approved**

4. Miscellaneous

Mr. Shine informed the Board KCCA has brought litigation against JM Corporation. We now have a Judge from Marion County that will be hearing this. There was an attorney conference two weeks ago and the judge recommended that the Madison County Commissioners not be a party to this and the Madison County Planning Commission not be a party but that the Board of Zoning Appeals be made a party to the litigation. I have taken a role as we had previously discussed and that we are an independent party and we are going to follow whatever the court determines. (We have just been made an Interested Party). We still have litigation in Hamilton County against the Board of Zoning Appeals and it is now the understanding they are wanting to get that going again.

Mr. Shine told the Board there are still numerous violation cases that are pending but they are actively being worked on.

Member Maxwell made a motion, seconded by Member Durham to adjourn. The motion was unanimous in favor of the motion.

Adjournment: 11:53:19 A.M.

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William Hobbs, Vice Chairman

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Beverly Guignet, Secretary